UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,799	08/04/2003	Jie Cheng	2140.0020001	5549

26111   7590   10/30/2008
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
AIRAPETIAN, MILA

ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
10/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/632,799	CHENG ET AL.
Office Action Summary	Examiner	Art Unit	
	MILA AIRAPETIAN	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 July 2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-88</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-88</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claim Rejections - 35 USC § 112 has been withdrawn due to Applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-22, 29-50, and 57-78, 85-88 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Ivanov (U.S. Patent No. 7343355) in view of Hammond

(20020082977).

As per claim 1, Ivanov teaches "a method for generating an optimized commodity

distribution plan, the method comprising the steps of: performing one or more elasticity

computations for one or more past commodity products sold at one or more auction

sites" (see Ivanov column 3 lines 52-67 and column 5 lines 35-47; where elasticity

computations are performed based on previous commodity sales.) and "generating an

auction forecast price for one or more present commodity products to be at said one or

more auction sites using said one or more elasticity computations, wherein each of said

present auction commodity products and said past commodity products have an

associated commodity model type and a commodity model year" (see Ivanov column 4

lines 60-65; where an optimized pricing plan is determined based on elasticity

computations.). Ivanov fails to explicitly teach where the commodity is set for auction.

Hammond, in an analogous art, explicitly teaches the commodity is set for auction (see

Hammond abstract) (see Hammond paragraphs 113-116; where a distribution plan is

set to determine which market place can be used for auctioning the commodity). The

advantage of such a feature is that it enables the generation of the most profit per sale.

It would have been obvious, at the time of the invention, to one of ordinary skill in the art

to combine the features of the commodity is set for auction and "generating an

optimized auction commodity distribution plan for said one or more present auction

commodity products using said generated forecast price" taught by Hammond to Ivanov

in order to maximize the profit per sale.

As per claim 2, Ivanov teaches "the method of claim 1, wherein said step of

generating an auction forecast price comprises the steps of: obtaining retail market

performance data for one or more past retail commodity products sold at one or more

retail sites" (see Ivanov column 4 lines 60-65; where past sale prices at specific market

places is collected.), "obtaining regional data relevant to said one or more retail sites"

(see Ivanov column 6 lines 49-59; where geographic data is collected. Geographic data

is the same as regional.), "performing a regional trend analysis of sales for said one or

more past retail commodity products using said retail market performance data and

regional data" (see Ivanov column 6 lines 1-23 and column 6 lines 49-59; where a trend

analysis is performed. Collected data is analyzed to determine the best pricing plan.),

"generating a time-series model for said one or more past retail commodity products

using said regional trend analysis" (see Ivanov column 9 lines 16-33; where a time-

series model is developed.), and "determining a price-level adjustment for said one or

more present auction commodity products based on said elasticity computations and

said time-series models" (see Ivanov column 6 lines 1-23; where a price adjustment is

done.). Ivanov fails to explicitly teach "performing a seasonality analysis for said one or

more past auction commodity products" and the time-series model is generated using

the seasonality analysis. Examiner takes Official Notice that it is old and well-known in

the art to perform the steps of "performing a seasonality analysis for said one or more

past auction commodity products" and the time-series model is generated using the

seasonality analysis. The advantage of these steps is that it further defines the data

analysis and enables a more accurate auction forecast price prediction. It would have

been obvious, at the time of the invention, to one of ordinary skill in the art to modify

Ivanov in include the old and well-known steps of "performing a seasonality analysis for

said one or more past auction commodity products" and the time-series model is

generated using the seasonality analysis in order to more accurately forecast an auction

sale price.

As per claim 3, Ivanov does not expressly teach the specific data recitede;

however, these differences are only found in the non-functional descriptive material and

are not functionally involved in the steps recited nor do they alter the recited structural

elements. The recited method steps would be performed the same regardless of the

specific data. Further, the structural elements remain the same regardless of the

specific data. Thus, this descriptive material will not distinguish the claimed invention

from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217*

USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed.

Cir. 1994); MPEP ə 2106.

As per claim 4, Ivanov teaches:

The method of claim 2, wherein said step of performing a regional trend analysis

comprises the step of determining a profit margin and a time-to-turn for said one or

more past retail commodity products using said retrieved retail market performance data

(see Ivanov column 6 lines 40-59; where a profit margin based on the regional trend

analysis is determined.).

As per claim 5, Ivanov fails to explicitly teach "performing a seasonality comprises the

step of quantifying a seasonal effect on a past auction commodity price paid for said

one or more past auction commodity products". Examiner take Official Notice that it is

old and well-known in the art to perform a seasonality analysis based on the seasonal

effect on a commodity price. The advantage of such a feature is that it enables one to

more accurately forecast an auction price. It would have been obvious, at the time of

the invention, to modify Ivanov to include the steps of "performing a seasonality

comprises the step of quantifying a seasonal effect on a past auction commodity price

paid for said one or more past auction commodity products" in order to more accurately forecast an auction price.

As per claim 6, Ivanov teaches:

The method of claim 1, wherein said step of performing one or more elasticity computations comprises the step of determining a self-price elasticity value representing a percentage decrease in said past auction commodity price paid for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said past auction commodity products, said first and second past auction commodity products having the same commodity model type and same commodity model year (see Ivanov column 3 lines 52-67; where elasticity is defined and computed the same as the present invention.).

As per claim 7, Ivanov teaches:

The method of claim 6, wherein said step of performing one or more elasticity computations further comprises the step of determining a cross-price elasticity value representing a percentage decrease in said past auction commodity price paid for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said one or more past auction commodity products, wherein said first and second past auction commodity products have different model types (see Ivanov column 3 lines 52-67 and column 4 lines 1-13; where elasticity is defined and computed the same as the present invention.).

As per claim 8, Ivanov teaches:

The method of claim 7, wherein said step of performing one or more elasticity computations further comprises the step of determining a cross-price elasticity value representing a percentage decrease in said past auction commodity price for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said one or more past auction commodity products, wherein said first and second past auction commodity products have a different commodity model type (see Ivanov column 3 lines 52-67 and column 4 lines 1-13; where elasticity is defined and computed the same as the present invention.).

As per claim 9 and 11, Ivanov fails to teach "obtaining present/past auction commodity description data for said one or more present auction commodity products". Hammond, in an analogous art, teaches "obtaining present auction commodity description data for said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.). The advantage of such a feature is that it enables the proper marketing and sale of a commodity. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the feature of "obtaining present/past auction commodity description data for said one or more present auction commodity products" in order to enable the proper marketing and sale of a commodity.

As per claim 10 and 12, Ivanov fails to teach "obtaining a present/past commodity usage measurement for said one or more present auction commodity products", "obtaining one or more present/past optional features associated with said one or more present/past auction commodity products", and "obtaining a present/past auction type associated with said one or more present auction commodity products". Hammond, in an analogous art, teaches "obtaining a present/past commodity usage measurement for said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.), "obtaining one or more present/past optional features associated with said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.), and "obtaining a present/past auction type associated with said one or more present/past auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.). The advantage of such a feature is that it enables the proper marketing and sale of a commodity. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the feature of "obtaining a present/past commodity usage measurement for said one or more present auction commodity products", "obtaining one or more present/past optional features associated with said one or more present/past auction commodity products", and "obtaining a present/past auction type associated with said one or more present auction commodity products" in order to enable the proper marketing and sale of a commodity.

As per claims 13-16, Ivanov fails to explicitly teach "determining an initial forecast auction commodity price for each of said one or more present auction commodity products using said past auction commodity description data and said present auction commodity description data", "performing a usage measurement description analysis, performing a commodity optional feature analysis, and performing an auction type analysis", "defining one or more past commodity product groups, wherein search of said one or more past commodity product groups is representative of said one or more past auction commodity products that have the same commodity model type and the same commodity model year and generating a usage measurement deduction curve for each of said one or more past auction commodity product groups", and "using said past auction commodity usage measurements associated with said past commodity product group to generate said usage measurement deduction curve". Hammond, in an analogous art, teaches "determining an initial forecast auction commodity price for each of said one or more present auction commodity products using said past auction commodity description data and said present auction commodity description data" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.), "performing a usage measurement description analysis, performing a commodity optional feature analysis, and performing an auction type analysis" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.), "defining one or more past commodity product groups, wherein search of said one or more past commodity product groups is representative of said one or more past auction

commodity products that have the same commodity model type and the same

commodity model year and generating a usage measurement deduction curve for each

of said one or more past auction commodity product groups" (see Hammond

paragraphs 113-116, 119-121, and 128; where an initial forecast based on a

commodity's previous performance is determined.), and "using said past auction

commodity usage measurements associated with said past commodity product group to

generate said usage measurement deduction curve" (see Hammond paragraphs 113-

116, 119-121, and 128; where an initial forecast based on a commodity's previous

performance is determined.). The advantage of these features is that it promotes

developing a more accurate pricing forecast. It would have been obvious, at the time of

the invention, to combine the features of "determining an initial forecast auction

commodity price for each of said one or more present auction commodity products

using said past auction commodity description data and said present auction commodity

description data", "performing a usage measurement description analysis, performing a

commodity optional feature analysis, and performing an auction type analysis", "defining

one or more past commodity product groups, wherein search of said one or more past

commodity product groups is representative of said one or more past auction

commodity products that have the same commodity model type and the same

commodity model year and generating a usage measurement deduction curve for each

of said one or more past auction commodity product groups", and "using said past

auction commodity usage measurements associated with said past commodity product

group to generate said usage measurement deduction curve" taught by Hammond to

Ivanov in order to develop a more accurate pricing forecast.

As per claims 17 and 18, Ivanov fails to explicitly teach "determining a usage

measurement deduction for said one or more present auction commodity products using

said generated usage measurement deduction curve for said past commodity product

group having the same commodity model type and the same commodity model year as

said one or more present auction commodity products" and "defining one or more past

commodity product feature groups, wherein each of said one or more past commodity

product feature groups is representative of said one or more past auction commodity

products that have the same past optional features and generating a past commodity

product feature model for each of said one or more past commodity product feature

groups". Examiner takes Official Notice that it is old and well-known in the art to

perform the steps of "determining a usage measurement deduction for said one or more

present auction commodity products using said generated usage measurement

deduction curve for said past commodity product group having the same commodity

model type and the same commodity model year as said one or more present auction

commodity products" and "defining one or more past commodity product feature groups,

wherein each of said one or more past commodity product feature groups is

representative of said one or more past auction commodity products that have the same

past optional features and generating a past commodity product feature model for each

of said one or more past commodity product feature groups". The advantage of such

features is that they enable a more accurate description of a forecasted sale price. It

would have been obvious, at the time of the invention, to one of ordinary skill in the art

to modify Ivanov to include the steps of "determining a usage measurement deduction

for said one or more present auction commodity products using said generated usage

measurement deduction curve for said past commodity product group having the same

commodity model type and the same commodity model year as said one or more

present auction commodity products" and "defining one or more past commodity

product feature groups, wherein each of said one or more past commodity product

feature groups is representative of said one or more past auction commodity products

that have the same past optional features and generating a past commodity product

feature model for each of said one or more past commodity product feature groups" in

order to enable a more accurate description of a sale price.

As per claim 19, Ivanov fails to explicitly teach "defining one or more past auction

type groups, wherein said one or more past auction type groups is representative of

said one or more past auction commodity products that are associated with the same

past auction type" and "generating a past auction type model for each of said one or

more past auction type groups". Hammond, in an analogous art, explicitly teaches

"defining one or more past auction type groups, wherein said one or more past auction

type groups is representative of said one or more past auction commodity products that

are associated with the same past auction type" (see Hammond paragraphs 113-116;

where previous auctions from specific marketplaces are examined.) and "generating a

past auction type model for each of said one or more past auction type groups" (see

Hammond paragraphs 113-116; where past auction types are modeled.). The

advantage of these features is that it enables that a commodity is sold for an optimal

profit. It would have been obvious, at the time of the invention, to one of ordinary skill in

the art to combine the features of "defining one or more past auction type groups,

wherein said one or more past auction type groups is representative of said one or more

past auction commodity products that are associated with the same past auction type"

and "generating a past auction type model for each of said one or more past auction

type groups" taught by Hammond to Ivanov in order to sell a commodity for an optimal

profit.

As per claim 20, Ivanov fails to explicitly teaches "determining a confidence

distance between said one or more present auction commodity products and said one

or more past auction commodity products", "assigning a confidence weight to said one

or more past auction commodity products based on said determined confidence

distance", and "setting said initial auction forecast price for said one or more present

auction commodity products equal to a weighted average of said past auction price paid

for said one or more past auction commodity products using said assigned confidence

weight". Hammond, in an analogous art, explicitly teaches "determining a confidence

distance between said one or more present auction commodity products and said one

or more past auction commodity products" (see Hammond paragraphs 113-116 and

128; where a confidence value for the auction price is set.), "assigning a confidence

weight to said one or more past auction commodity products based on said determined

confidence distance" (see Hammond paragraphs 113-116 and 128; where a confidence

weight is assigned.), and "setting said initial auction forecast price for said one or more

present auction commodity products equal to a weighted average of said past auction

price paid for said one or more past auction commodity products using said assigned

confidence weight" (see Hammond paragraphs 113-116 and 128; where an initial

auction forecast price is set.). The advantage of these features is that it enables that a

commodity is sold for an optimal profit. It would have been obvious, at the time of the

invention, to one of ordinary skill in the art to combine the features of "determining a

confidence distance between said one or more present auction commodity products and

said one or more past auction commodity products", "assigning a confidence weight to

said one or more past auction commodity products based on said determined

confidence distance", and "setting said initial auction forecast price for said one or more

present auction commodity products equal to a weighted average of said past auction

price paid for said one or more past auction commodity products using said assigned

confidence weight" taught by Hammond to Ivanov in order to sell a commodity for an

optimal profit.

    As per claims 21 and 22, Ivanov fails to explicitly teach "retrieving present retail

market condition data, present commodity product demand data based on seasonal

changes, present commodity product supply data, and present auction volume data"

and "generating an auction forecast price step generates said auction forecast price by

adjusting said set initial auction forecast price for said one or more present auction

commodity products using said determined price level adjustments, said present retail

market condition data, said present commodity product demand data, said present

commodity product supply data, and said present auction volume data". Hammond, in

an analogous art, teaches "retrieving present retail market condition data, present

commodity product demand data based on seasonal changes, present commodity

product supply data, and present auction volume data" (see Hammond paragraphs 113-

116, 119-120, and 128; where data for determining an auction forecast price is

collected. Forecast data includes present price conditions, past price conditions, supply

data, and demand data.) and "generating an auction forecast price step generates said

auction forecast price by adjusting said set initial auction forecast price for said one or

more present auction commodity products using said determined price level

adjustments, said present retail market condition data, said present commodity product

demand data, said present commodity product supply data, and said present auction

volume data" (see Hammond paragraphs 113-116, 119-120, and 128; where data for

determining an auction forecast price is collected. Forecast data includes present price

conditions, past price conditions, supply data, and demand data.). The advantage of

these features is that it enables that a commodity is sold for an optimal profit. It would

have been obvious, at the time of the invention, to one of ordinary skill in the art to

combine the features of "retrieving present retail market condition data, present

commodity product demand data based on seasonal changes, present commodity

product supply data, and present auction volume data" and "generating an auction

forecast price step generates said auction forecast price by adjusting said set initial

auction forecast price for said one or more present auction commodity products using

said determined price level adjustments, said present retail market condition data, said

present commodity product demand data, said present commodity product supply data,

and said present auction volume data" taught by Hammond to Ivanov in order to sell a

commodity for an optimal profit.

As per claims 85-88, same reasoning applied to claims 1-4.

Response to Arguments

Applicant's arguments filed 07/07/2008 have been fully considered but they are

not persuasive.

In response to Applicant's argument that Hammond does not teach means for

generating an optimized distribution plan, it is noted that Ivanov was applied for this

feature (col. 4; lines 60-65).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MILA AIRAPETIAN whose telephone number is

(571)272-3202. The examiner can normally be reached on Monday-Friday 9:30 am -

6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./
Art Unit 3625